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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NATHAN KEVIN TURNER, Plaintiff, **v.** **B. DUMANTS, et al.,** Defendant.	Case No. 08CV0360 W (RBB) **DEFENDANT BROWN'S NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT** Hearing: June 23, 2008 Time: 10:00 a.m. Judge: Hon. Ruben B. Brooks (Oral Argument Not Requested)

Please take notice that on June 23, 2008, at 10:00 a.m., before the Honorable Magistrate Judge Ruben B. Brooks, Attorney General Edmund G. Brown Jr. will move to dismiss the Complaint against him. Oral argument is not requested because Plaintiff is an inmate proceeding in pro se. The grounds for the motion are that Attorney General Brown had no involvement in Plaintiff's criminal prosecution or the handling of his DNA evidence; Plaintiff's claims are barred by the statute of limitations; Plaintiff's claims are barred under the favorable termination doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994), and Plaintiff's claims are barred by collateral estoppel.

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This motion will be based on the Notice of Motion and Motion, the Memorandum of Points and Authorities, and the Court's own files.

Dated: May 20, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California
DAVID S. CHANEY
Chief Assistant Attorney General
FRANCES T. GRUNDER
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RENE L. LUCARIC
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/S/ Michelle Des Jardins

MICHELLE DES JARDINS
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Turner, Nathan Kevin v. B. Dumanis, et al.**

Case No.: **08CV0360 W (RBB)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266.

On May 20, 2008, I served the attached **DEFENDANT BROWN'S NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Diego, California, addressed as follows:

Nathan Kevin Turner
CDC # C-44886
California Medical Facility
P.O. Box 2000
Vacaville, CA 95696-2000
In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 20, 2008, at San Diego, California.

J. Yost	J. Yost (signature)
Declarant	Signature

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